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February 11, 1997

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William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

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FEB 11 1997
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: FCC PR Docket No. 92-235;
Spectrum Refarming Proceeding;
Ex Parte Meeting

Dear Mr. Caton:

The purpose of this letter is to provide notice that on February 11, 1997, the following individuals met with Julius Genachowski of Chairman Hundt's office to discuss the above-captioned proceeding: Ray Cline and John Reardon on behalf of the American Petroleum Institute. Our discussion concerned the Commission's proposal to consolidate the radio service pools.

As representatives of Private Land Mobile Radio Service users with special safety mandates, we expressed our belief that the Commission should develop a separate pool for Industrial Safety Service entities such as petroleum and natural gas companies, railroads, and utilities. We believe that ITA's two-pool approach does not adequately protect the needs of Industrial Safety Service users because ITA's approach grants access to their channels to any and all non-public safety entities, including commercial service providers. Such an approach, we believe, ignores the vital role which Private Land Mobile Radio plays for the provision of public safety in the industrial operations of petroleum and natural gas companies, railroads, utilities, and similar industrial users.

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Should the Commission require further information, it is respectfully requested to contact the undersigned at (202) 434-4129.

Sincerely,

John Reardon

Enclosures

cc: Mr. Julius Genachowski
Raymond E. Cline, Jr., Ph.D.

NEED FOR INDUSTRIAL SAFETY SERVICE POOL

- Private Mobile Radio Communications Are Vital In The Petroleum And Natural Gas Industry

- Petroleum and Natural Gas Companies Must Meet Federal, State and Local Government Safety Communications Requirements and Industry Standards For Reliable Communications

- ITA's Proposal Does Not Adequately Protect Those Industrial Licensees With Public Safety Obligations

- The FCC Should Create A Separate Industrial Safety Service Pool For Industrial Users Such As Petroleum And Natural Gas Producers And Transporters, Electric Utilities, And Railroads

API Proposes The Creation Of The Following Pools:

(1) Industrial Safety Service: The Industrial Safety Service pool should include communications systems servicing: pipelines; refineries; oil and gas production; petrochemical plants; hazardous material transport, docking and loading operations; railroads; public utilities; and other industrial users who employ their systems for essential safety communications and are required by federal, state or local regulations or industry codes or standards, for safety considerations, to provide redundant or highly reliable communications to support their operations.

(2) Emergency Response Safety Service: Police, Fire and other emergency response safety services.

(3) Non-Commercial Radio ("NCR") Service: The NCR pool is for all current private radio services not covered by the Industrial Safety Service and Emergency Response Safety Service pools. NCR spectrum should not be allocated to commercial radio services. A vast amount of commercial spectrum is already allocated in other bands to PCS, cellular, satellite, SMR and other commercial services. Channels newly created by the spectrum refarming plan from existing PLMRS spectrum should remain "private."

(4) Specialized Mobile Radio ("SMR") Service: Existing SMR allocations should be included in their own pool.

(5) General Category Pool. Frequencies from the general category pool should be accessible to all PLMRS users.

Examples Of Federal Requirements For Safety
Communications In The Petroleum And Natural Gas Industry

The Occupational Safety and Health Administration ("OSHA") Report 3033 specifically requires refineries, petrochemical plants, oil pipelines and other facilities to maintain complex, reliable primary and secondary communications systems. See, Process Safety Management Guidelines for Compliance, OSHA 3113 at 25 (1992).

Similarly, Department of Transportation regulations for high-reliability communications systems and secondary communications systems cover the operation of high pressure natural gas pipelines. See, 49 C.F.R. § 194.107(d)(1)(ii); 49 C.F.R. § 194, Appendix A; 49 C.F.R. § 195.401(a); 49 C.F.R. § 195.402(c); 49 C.F.R. § 195.408.

Additionally, the Environmental Protection Agency ("EPA") has established risk management programs to deal with off site consequences of hazardous material spills and releases. See, Section 112R, Accidental Release Provisions of the Clean Air Act.

The U.S. Coast Guard places heavy communications requirements on oil companies as well. For instance, all applicants that own, construct or operate a deep-water port, such as an oil transfer facility, must describe the com-munications systems to be used in the construction and operation of a deep-water port. 33 C.F.R. §§ 148.109(g) and 148.109(v) (1996). U.S. Coast Guard regulations also require marine transportation-related facilities that transfer oil or other bulk hazardous materials to and from vessels to submit a response plan that describes the primary and alternative means of communications that would be utilized during an accidental discharge. 33 C.F.R. § 154.1035(e)(4) (1996). Communications system requirements are also placed on operators of waterfront facilities handling liquified hazardous gas to have continuous two-way voice communications between vessels and the transfer facilities. 33 C.F.R. § 127.111 (1996). Oil-bearing vessels are required by U.S. Coast Guard regulations to notify the Coast Guard of their primary and secondary communications methods to be utilized in order to notify appropriate parties in the event of an oil spill. 33 C.F.R. § 155.1035(b)(4) (1996) (married vessels); 33 C.F.R. § 155.1040 (1996) (unmarried tank barge).

The Minerals Management Service ("MMS") of the U.S. Department of Interior requires that operators of offshore facilities for oil exploration, drilling, production, storage, processing or transportation in federal or state waters file an Oil Spill Contingency Plan ("OSCP"). In the OSCP, operators must establish an oil spill response center and a reliable communications system for directing the coordinated overall response operations in the event of an oil spill. 30 C.F.R. §§ 254.5 and 254.5(c)(7)(iii) (1996).